

implement institutional controls in the form of a deed notice and a Classification Exception Area ("CEA");

WHEREAS, EPA, NJDEP, and the Town acknowledge that the fair market value of the Property will not permit each party's lien to be satisfied in full, but have agreed to permit the sale of the Property;

WHEREAS, EPA supports the redevelopment of Superfund sites and is willing to release its CERCLA Lien in consideration of compensation as provided below;

WHEREAS, NJDEP supports the redevelopment of Superfund sites and is willing to release its Spill Act Lien in consideration of compensation as provided below;

WHEREAS, the Town supports the redevelopment of Superfund sites and is willing to release its tax liens in consideration of compensation as provided below; and

WHEREAS, at the closing on the sale of the Property EPA, the NJDEP, and the Town have agreed to distribute the proceeds of sale based upon the terms set forth herein.

NOW THEREFORE, the Parties enter into this Agreement to express their intent to undertake the following actions with respect to foreclosure, the proceeds of sale, and the release of all liens:

1. Within sixty (60) days of the execution by all Parties to this Agreement, the Town expects to commence and prosecute a tax sale certificate foreclosure against the Property with respect to Tax Liens 939422 and 939423 (referred to as the "Foreclosure Action"). The Town is not required to name EPA, the United States of America, or the NJDEP, defendants in the Foreclosure Action.

2. If Tax Liens 939422 and 939423 are not redeemed during the Foreclosure Action, the Town's tax collector will execute the affidavit of non-redemption. Unless Tax Liens 939422 and 939423 are redeemed, the Town will seek to enter a final judgment of foreclosure (the "Final Judgment"), thereby vesting title to the Property in the Town. As agreed to in this document, ~~Should the Town acquire title to the Property via foreclosure, it shall submit an Exemption from Spill Act Liability Certification form to NJDEP. The referenced form and instructions are available on NJDEP's website~~ https://www.nj.gov/dep/srp/sra/forms/exemption\_spill\_act.pdf?version=1.1 ~~it should submit an Exemption from the NJDEP shall provide to the Town written confirmation that the Town shall have no liability under the Spill Act Liability Certification form to the Department. The referenced form and instructions are available on other state law for environmental conditions or liens on the Department's website~~ https://www.nj.gov/dep/srp/sra/forms/exemption\_spill\_act.pdf?version=1.1 ~~Property. The US~~ Irrespective of the requirement for the Town to submit the Exemption from Spill Act Liability Certification form to NJDEP, EPA intends shall also to issue a comfort/status letter to the Town consistent with EPA's 2019 Policy on the Issuance of Superfund Comfort/Status Letters and in

either of

Field Code Changed

accordance with the new and updated model comfort/status letters as transmitted by EPA's September 30, 2021 memorandum at <https://www.epa.gov/system/files/documents/2021-10/comfort-status-mod-letters-niem-2021.pdf>, confirming that the Town shall have no liability under CERCLA or any other federal law for environmental conditions or liens on the Property.

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3. If Tax Liens 939422 and 939423 are redeemed prior to Final Judgment, the Town will provide the EPA and NJDEP with the name and contact information for the person(s) or entities that redeemed said Tax Liens and the Parties agree that they will take no further actions and this Agreement will no longer be in effect. Nothing herein shall preclude the USEPA and/or the NJDEP from pursuing its claims and enforcing its liens against the party that redeems the tax liens.

either  
or  
both

4. The Town intends to institute action to designate the Property as an "Area in Need of Redevelopment". Upon such designation and upon the entry of the Final Judgment, the Town expects to market the Property for sale through a Request for Proposal process and to enter into a Contract for Sale for the maximum market value as determined by the Town and subject to the agreement of EPA and NJDEP. The Parties intend state that the Contract for Sale will shall contain the contingency that the third-party redeveloper or other end user enter into a pre-purchase ACO with the NJDEP to assume the O&M of the groundwater remedy under NJDEP direct oversight pursuant to the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq. and implement and comply with all institutional controls as required by EPA and NJDEP. Upon the Town's entering into a Contract for Sale of the property to a third-party redeveloper or other end user, the Town would have the right to approve the redeveloper and the redevelopment agreement pursuant to N.J.S.A. §40A:12A-1, et seq.

5. If the Town is unable to find a satisfactory buyer within one year of the entry of the Final Judgment ("Contract Deadline"), the Parties may extend the Contract Deadline in six (6) months increments, (not to exceed three (3) extensions, for a total of eighteen (18) months), upon written notice and agreement of the Parties prior to the Contract Deadline.

6. If the Town enters into a Contract of Sale, at closing, the Town intends to abate, remove, and relinquish the Town Tax Lien with respect to the Property.

7. Following the time the Town enters into a Contract for Sale, EPA and the NJDEP expect to proceed to process a discharge and release of their respective CERCLA and Spill Act Liens. After the date of execution of the Contract for Sale and prior to closing on the Property, the prospective buyer and the NJDEP are expected to enter into a pre-purchase ACO.

8. At the closing on the sale of the Property, (1) EPA intends to provide notice of a discharge and release of EPA's CERCLA Lien, (2) the NJDEP intends to provide notice of a discharge and release of NJDEP's Spill Act Lien, (3) the Town intends to endorse the Town Tax Lien for cancellation. The Parties agree that the proceeds from the sale will be distributed by the title agent ("Title Agent") as follows:

- a. First, the closing costs, broker's commission, realty transfer fee and any